

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA,

1:22-MJ-92

v.

UNDER SEAL

KEVIN MCAVENIA

Defendant.

AFFIDAVIT IN SUPPORT OF
CRIMINAL COMPLAINT AND ARREST WARRANT

I, Derek J. Goguen, a Special Agent with the Federal Bureau of Investigation (“FBI”) having been first duly sworn, do hereby depose and state as follows:

INTRODUCTION

1. I have been employed as a Special Agent of the FBI since 2012, and am currently assigned to Washington Field Office (WFO), Child Exploitation and Human Trafficking Task Force. I am thus a “federal law enforcement officer” within the meaning of Fed. R. Crim. P. 41(a)(2)(C). While employed by the FBI, I have investigated federal criminal violations related to high technology or cyber crime, child exploitation, online enticement, and child pornography. I have gained experience through child exploitation trainings, and everyday work related to conducting these types of investigations. I have received training in the area of child pornography and child exploitation, and have observed and reviewed numerous examples of online enticement, sextortion, and child pornography (as defined in 18 U.S.C. § 2256) in all forms of media, including computer media.

2. This Affidavit is submitted pursuant to Fed. R. Crim. P. 4 in support of a criminal complaint charging Kevin MCAVENIA with receipt of child pornography, in violation of 18 U.S.C. § 2252(a)(2). I respectfully submit that the information contained in this affidavit demonstrates probable cause to believe that MCAVENIA has committed that offense, and therefore respectfully request that the Court issue the attached complaint and warrant for MCAVENIA's arrest.

3. The statements contained in this affidavit are based in part upon my own personal observations, and in part on information provided to me by other law enforcement officers; written reports and verbal discussions about this and other investigations that I have received, directly or indirectly, from other law enforcement agents; and the results of the forensic analysis of various electronic devices. Since this Affidavit is being submitted for the limited purpose of establishing probable cause in support of the issuance of a criminal complaint and associated arrest warrant, I have not included each and every fact known to me or to other law enforcement officers concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that MCAVENIA has committed one or more violations of 18 U.S.C. § 2252(a)(2).

STATUTORY AUTHORITY AND LEGAL DEFINITIONS

4. 18 U.S.C. § 2252(a)(2) prohibits any person from knowingly receiving, and from attempting or conspiring to receive, any visual depiction using any means or facility of interstate or foreign commerce, or that has been mailed or shipped or transported in or affecting interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproducing any visual depiction

for distribution using any means or facility of interstate or foreign commerce, or in or affecting interstate or foreign commerce or through the mails, if the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct.

PROBABLE CAUSE

A. Initial CyberTipline Reports

5. In and around January 2021, WFO's Child Exploitation and Human Trafficking Task Force received 25 CyberTipline Reports produced by the National Center for Missing and Exploited Children (NCMEC). These CyberTipline Reports were generated based upon information sent to NCMEC by Google between January 5, 2021 and January 29, 2021. During that time period, Google submitted 25 separate alerts to NCMEC about files containing suspected child pornography that were uploaded to the Google Drive account registered to Kevin MCAVENIA, with mobile telephone number XXX-XXX-9087, and email addresses kmcavenia@gmail.com and kmcavenia@yahoo.com.

6. In total, the 25 CyberTipline Reports contain 229 files of suspected child pornography. The majority of the files are video files of varying length. Google viewed 108 of the suspected child pornography files (at least 1 file included in each CyberTipline Report) before submitting them to NCMEC, and I viewed those same files to verify that they contained suspected child pornography. Three of the files are described as follows:

- a. A video file titled, in part, "sex . . .", duration: approximately 4 minutes and 42 seconds
 - This video file depicts a collection of various clips of what appears to be the same

prepubescent female masturbating, urinating in a tub, and engaging in bestiality with a dog.

- b. A video file with a title indicative of a brother and sister engaged in sexual acts, duration: approximately 14 seconds – This video file depicts what appears to be a prepubescent male and a minor female engaging in vaginal and oral sex.
- c. A video file with a title indicative of child pornography, duration: approximately 10 minutes and 2 seconds – This video file depicts a collection of various clips of what appears to be the same prepubescent female exposing her chest, vagina, and anus multiple times and engaging in oral sex with a prepubescent male.

7. Some of these files were uploaded to the Google Drive account between December 11, 2020 at 1428 hours UTC and January 3, 2021 at 1855 hours UTC using IP address 2601:140:8880:970:c0c:1427:a8a3:8f78 (“Subject IP Address”). Using publicly available search tools, law enforcement determined that the Subject IP Address was controlled by Internet Service Provider (“ISP”) Comcast Cable Communications (“Comcast”). Comcast provided records for the Subject IP address during the specified timeframe. These records showed that the Subject IP Address was assigned to customer Kevin MCAVENIA during that timeframe, with a service and billing address that match MCAVENIA’s mobile telephone number and his home address in Arlington, Virginia, within the Eastern District of Virginia.

B. Search Warrant for kmcavenia@gmail.com account

8. On November 17, 2021, the Honorable Ivan D. Davis, United States Magistrate Judge for the Eastern District of Virginia, authorized a search warrant for the contents of the kmcavenia@gmail.com Google account (“the Subject Account”). On December 7, 2021, Google LLC (“Google”) provided records in response to that warrant.

9. Upon review of the information received from Google, I located one folder on the Subject Account's Google Drive that contained hundreds of video and photo files depicting child pornography. That folder had file path Drive>MISC>Stuff and had dozens of subfolders with titles indicative of child pornography depicting prepubescent minors. In most cases, these subfolders contained several videos and/or photos broken up into parts or screenshots depicting the same minor(s) engaging in sexually explicit conduct. Three of the files stored in the "Stuff" folder are described as follows:

- a. A video file titled in part, "bdog", approximate duration: 25 minutes and 5 seconds
– This video depicts what appears to be a nude minor female in bed engaging in bestiality with a dog, including manual stimulation, oral sex, and attempted vaginal sex. The minor female is engaged in a video chat with another party and appears to be using the Omegle video chat application.
- b. A video file with a title indicative of the person in the video being a minor, approximate duration: 3 minutes and 18 seconds – This video depicts what appears to be a nude prepubescent female masturbating using her hands and a green marker.
- c. A video file with a title indicative of sexual acts involving an animal, approximate duration: 5 minutes and 41 seconds – This video depicts what appears to be a prepubescent female's exposed genitalia and the prepubescent female engaging in bestiality with a dog, including oral sex.

10. The Subject Account's Google Drive also includes a folder, located at Drive>Personal Paperwork, containing personal documents identifying Kevin MCAVENIA as the user of the account, such as resumes, a Virginia driver's license, personal firearms records

(including 3 handguns), and a completed Form SF-86. Several of the documents also reflect a particular address in Arlington, Virginia as MCAVENIA's current home address.

C. January 14, 2022 Search Warrant – McAvenia's Residence

11. On or about January 12, 2022, the Hon. Judge Ivan D. Davis, United States Magistrate Judge for the Eastern District of Virginia, issued a search warrant authorizing the search of Kevin MCAVENIA's residence in Arlington, Virginia, within the Eastern District of Virginia. The warrant authorized law enforcement officers to search MCAVENIA's residence, and the contents of any electronic devices located therein, for evidence, fruits, and property used in or intended to be used in the commission of various child pornography offenses, including the transportation of child pornography, in violation of 18 U.S.C. § 2252(a)(1), and the possession of child pornography, in violation of 18 U.S.C. § 2252(a)(4)(B). The search was executed on January 14, 2022.

12. MCAVENIA was present when the search was conducted. Upon initial contact with MCAVENIA, I advised him that he was not under arrest at this time, that he had no obligation to answer any questions or speak to law enforcement officers present, and that he could terminate the interview at any point. MCAVENIA stated that he understood his rights and was willing to travel to the Arlington County Police Department ("ACPD") for an interview. Prior to departing the residence, MCAVENIA used the restroom, changed his clothes, took his daily medication, and drank some water. MCAVENIA was not handcuffed during the transport to ACPD or at any point during the interview. At the ACPD, and prior to asking any questions pertinent to the investigation, law enforcement reminded MCAVENIA that he was currently not under arrest, that the interview

was voluntary, and that he was not obligated to remain at the ACPD if he became uncomfortable during the interview.

13. During the interview, MCAVENIA disclosed that he believed the ongoing search warrant related to child pornography that he downloaded from the internet and was in his possession at his residence. MCAVENIA explained that he has downloaded and viewed thousands of child pornography files for purposes of sexual gratification since he was in middle school (over 20 years ago). MCAVENIA stated that in the past he downloaded child pornography using various peer-to-peer networks, but more recently he has been seeking out and downloading child pornography using the The Onion Router (“TOR”)¹ network, also known as the dark net.

14. Concurrent to MCAVENIA’s interview, law enforcement officers conducting the search at MCAVENIA’s residence located and viewed files appearing to depict child pornography on a computer utilized solely by MCAVENIA. One example of a file appearing to contain child pornography found on the computer is a video file with a title suggesting it contains a toddler being molested by an adult. The video depicts multiple instances of what appears to be the same prepubescent female being forced to digitally penetrate and perform oral sex on an adult female’s vagina. The adult female also digitally penetrates and performs oral sex on the prepubescent female’s vagina. The video file is approximately 39 minutes and 37 seconds in length.

15. Following the aforementioned statements from MCAVENIA and discovery of the files found on MCAVENIA’s computer during the search, MCAVENIA was advised of his legal

¹ TOR is a routing service permitting Internet users to access resources on the dark web anonymously.

rights and an Advice of Rights form was executed. MCAVENIA agreed to continue the interview without his attorney present.

16. Twenty-one electronic devices were recovered from inside MCAVENIA's residence. The recovered devices included a Lenovo Thinkpad X1 laptop computer ("Laptop") and an Intel processor desktop computer ("Desktop"); the subsequent computer forensic examination of each of those two devices revealed the presence of numerous videos and/or images of child pornography. While the digital forensic examination of the seized devices is ongoing, investigators have to date located over 4,600 files (over 1,700 unique files) containing apparent child pornography, and over 575 files (over 475 unique files) containing child exploitive material² on the Laptop and Desktop. The majority of the files found on the devices are video files, totaling over 21 hours of child pornography and over 5 hours of child exploitive material.

17. The Laptop was seized during the search of MCAVENIA's residence and located on the floor by the left side of MCAVENIA's bed. A computer forensic examination of this Laptop revealed evidence (beyond MCAVENIA's statements) that MCAVENIA was the exclusive or primary user of the Laptop. For instance, the computer name is KEVIN-LAPTOP, with the owner denoted as kmcavenia@gmail.com. The User Accounts yielded only one account not standard to Windows: kmcav, with full name Kevin McAvenia. That account is password protected. Moreover, the Laptop contains a folder located at C:\Users\kmcav\Documents\Personal Paperwork, which includes several official documents specific to MCAVENIA including resumes,

² Child exploitive material includes age-difficult content and depictions of minors in sexually suggestive acts or poses that do not meet the definition of child pornography in the immediate file.

a passport photo, a marriage license, a birth certificate, and a Virginia driver's license—all indicating the device belongs to and is utilized solely by MCAVENIA.

18. A computer forensic examination of the Laptop revealed that the user of the Laptop used the internet to knowingly receive child pornography files on various occasions between on or about July 26, 2021 and on or about January 13, 2022. The TOR browser software was located on the Laptop at C:\Program Files (x86)\Tor\Tor Browser\Tor\tor.exe with a shortcut to access the TOR browser on the Laptop's desktop for user kmcav. A review of the Mozilla Firefox and TOR browser bookmarks on the Laptop yields 28 bookmarks, all of which link to TOR Project websites or TOR browser websites. Certain bookmarks resolve to websites on the TOR browser where child pornography is traded.³ Some of the bookmarks include phrases such as "Free Child Porn" and "Naughty Kids."

19. The Mozilla Firefox Web History and recent Browser Activity on the Laptop also show visits to the above TOR browser websites where child pornography can be downloaded.

20. Moreover, during the interview of MCAVENIA on January 14, 2022, MCAVENIA stated that he has bookmarked the TOR websites he visits to search for and download child pornography. MCAVENIA further stated that he recently has been downloading child pornography from two TOR websites. MCAVENIA provided a description of one of those websites, which matches a description of one of the TOR websites bookmarked on the Laptop and known to law enforcement as a website from which child pornography can be downloaded.

³ Many of the bookmarked TOR websites are known to law enforcement to be locations where downloading, trading, and/or broadcasting child pornography is prominent.

21. The Laptop contains hundreds of files consistent with child pornography saved predominantly in two locations. The default location where newly downloaded files are saved is into the folder located at C:\Users\kmcav\Downloads. This folder contains approximately 70 files (including 1 .rar folder) which appear to contain child pornography that were downloaded (or created) onto the device by user kmcav between January 8, 2022 and January 13, 2022. Some of those files include:

- a. A video file titled in part, “Belt” – created January 8, 2022 at 8:16:08 PM; approximate duration: 15 minutes and 58 seconds – This video file depicts a pubescent minor female nude in the bathroom, with a belt tightened around her neck, masturbating with a hairbrush and two toothbrushes.
- b. A video file with a title indicative of multiple minors engaging in incest – created January 8, 2022 at 5:47:17 AM; approximate duration: 20 minutes and 8 seconds – This video file depicts 2 nude prepubescent females performing sexual acts with each other on a couch, including oral sex. Later, a nude pubescent minor male enters the picture and the prepubescent minor females perform oral sex on the minor male, followed by the minor male rubbing and attempting to insert his erect penis on/into the vagina of the younger prepubescent female.
- c. A video file titled, in part, “horny . . .” – created January 8, 2022 at 7:43:19 PM; approximate duration: 9 minutes and 16 seconds – This video file depicts a pubescent minor female masturbating with her fingers and a black shoe at various locations in a residence.

22. In addition, the Laptop folder located at C:\Users\kmcav\MISC contains hundreds of files and subfiles with content appearing to depict child pornography. The “MISC” folder is not a standard folder on the Windows operating system, meaning it was created by user kmcav. As such, files will only appear in this folder if the files were moved into or commanded by kmcav at the time of download to be saved to this location. Some of those files saved in the “MISC” folder include:

- a. A video file with a title indicative of a minor female engaged in sexual acts⁴ – created December 25, 2021 at 3:56:44 AM; approximate duration: 3 minutes and 34 seconds – This video file depicts a nude adult male inserting anal beads into the anus of a nude pubescent minor female. The adult male then begins having vaginal sex with the nude pubescent minor female while continuing to force additional anal beads into the minor female’s anus.
- b. A video file with a title indicative of minors engaging in incest – created July 28, 2021 at 2:28:42 PM; approximate duration: 14 minutes – This video file depicts a pubescent minor male masturbating in front of a computer. Several times during the video a partially clothed prepubescent female is forced to rub the erect penis of the minor male and insert his penis into her mouth. The minor male lasciviously displays the prepubescent female’s exposed vagina to the camera and on multiple occasions attempts to insert his erect penis into the prepubescent female’s vagina.
- c. A video file with a title indicative of a minor victim engaging in acts of “BDSM” (bondage, discipline, sadism, and masochism) – created December 22, 2021 at

⁴ The file name appears to contain the full name of the minor victim.

6:44:14 PM; approximate duration: 1 minute and 45 seconds – This video file depicts a nude pubescent female on her knees with her hands behind her back and her mouth wide open. A nude adult male enters the picture and forces the pubescent female to perform oral sex on his erect penis, gagging her multiple times.

23. Moreover, a review of the VLC Recently Played Files shows that there were 30 video files, all of which appear to depict child pornography, recently played using the VLC media player software on the Laptop. These recently viewed video files are played from the C:\Users\kmcav\MISC or the C:\Users\kmcav\Downloads folders.

24. The Desktop was seized during the search of MCAVENIA's residence and located on a desk in the living room of the residence. During his interview on January 14, 2022, MCAVENIA explained that the Desktop is essentially a mirror image of the Laptop, with respect to folder structure and files on each device. A computer forensic examination of this Desktop supports MCAVENIA's statement, revealing substantial similarities between the Desktop and the Laptop, with some variance in folder structure and files present on each device. A similar user attribution as described for the Laptop—indicating MCAVENIA as the sole user of the device—is also present on the Desktop. For instance, the User Account yielded only one account not standard to Windows: kmcav, with full name Kevin McAvenia. The Google Chrome Autofill Profiles included two profiles: kmcavenia1188 and an email address associated with a business that MCAVENIA owns and operates. The Desktop also includes remnants from the following email accounts used on the device: kmcavenia@gmail.com, mcaveniak@rmgsinc.com, and kmcavenia@yahoo.com. Moreover, a folder on the Desktop (Users\kmcav\Documents\Personal

Paperwork) includes several official documents specific to MCAVENIA, including resumes, a passport photo, a marriage license, a birth certificate, and a Virginia driver's license.

25. The computer forensic examination of the Desktop further revealed that the user of the Desktop used the internet to knowingly receive child pornography files on various occasions between on or about July 30, 2021 and on or about January 13, 2022. The Desktop, similar to the Laptop, has hundreds of files containing what appears to be child pornography found in predominantly two locations, including C:\Users\kmcav\Pictures\Saved Pictures\MISC and C:\Users\kmcav\Downloads. A shortcut to the TOR browser can also be found on the Desktop at C:\Users\kmcav\Desktop\Tor Browser. In addition, the Mozilla Firefox and TOR browsers contain bookmarks similar to those found and described above for the Laptop. These bookmarks are to websites where child pornography is accessible to download, share, and/or broadcast.

26. As with the Laptop, the Mozilla Firefox web history on the Desktop also shows visits to TOR websites where child pornography can be downloaded.

(Continued on next page.)

CONCLUSION

27. Based on the foregoing, I respectfully submit that there is probable cause to believe that Kevin MCAVENIA has committed the offense of receipt of child pornography, in violation of 18 U.S.C. § 2252(a)(2). I therefore respectfully request that the Court issue the attached complaint and accompanying warrant for MCAVENIA's arrest.

Respectfully submitted,

Derek Goguen

Special Agent Derek J. Goguen
Federal Bureau of Investigation

Subscribed and sworn to in accordance
with Fed. R. Crim. Proc. 4.1
by telephone on April 19, 2022.

The Honorable John F. Anderson
United States Magistrate Judge